

And as in criminal law so in civil law these 'flaws' are continually exploited by those with the knowledge or authority to do so, perhaps especially in the case of P. Business versus A. Worker where the victims are forced to provide their own proof of 'causation': it isn't sufficient that doctors diagnose an industrial disease, such as mesothelioma for example (a fatal disease caused only by exposure to asbestos). In this particular context the medical profession is a body of judges subject to the control of those who judge the judges. If the victims cannot convince the 'specialist-judges' to accept 'medical opinion' they don't get compensation from the insurers of the firm or firms responsible for their imminent death. (In fact they don't even qualify for Disability Allowance from the DSS, whose Adjudicating Officers also come under the heading of 'specialist-judges; they too have the authority to overrule 'medical opinion', and in 7 cases out of 10 in Scotland, as far as I'm aware, that's what they do.)

Circumstantial evidence of the probable cause of violation may be admissible but the authorities are not obliged to accept it as proof. In order to verify causation beyond all reasonable doubt, i.e. render the proof 100%, victims must present the legal system, or the lawyers acting for the insurers or asbestos industry, with a piece of their lung. (If they want to be sure of receiving their Disability Allowance from the DSS they must do likewise.) But cutting open your body is a messy business so many victims prefer offering evidence of exposure to asbestos, to back up medical 'opinion', i.e. the diagnosis. This they can only do by finding two witnesses from each and every workplace they were ever employed. That's what the state demands. Therefore a man aged 65, having left school at 14, is forced to trace all the way back through his forty one years of working life. Unless dead. In which case the widow of the deceased must don the Sherlock Holmes deerstalker if she still wishes to continue the battle with the lawyers, the insurers and the asbestos industry.

That's one of the problems with circumstantial evidence, it can't be gathered immediately, it takes time and effort. A typical claim for compensation lasts from 4 to 6 years. Unlucky for the person with mesothelioma who has less than 9 months to live from that first diagnosis. Which is why the majority of people dying from this specific cancer throw away the deerstalker and climb aboard the operating table and plead with the surgeon to cut open their diseased body and thus substantiate the previous findings, the doctors' original diagnosis, i.e. the 'opinion' of the medical profession. As many as SEVEN doctors can have their diagnosis legally "ruled out" as "insufficient evidence" by the investigating team who act on behalf of Mr B. Business. (And back at the DSS, that other 'specialist-judge', the Adjudicating Officer, is also empowered to overrule the same SEVEN doctors and reject a claim for Disability Allowance from the same person dying of cancer.)

Legal matters are always expedited by providing physical proof. Not only does this give evidence that the disease exists, it provides 'causation'. Causation offers a 'proof' that is not only 'beyond all reasonable doubt', it is beyond any sort of doubt known to man or woman. Causation is a truly unimpeachable source, god-like in its perfection, providing both cause and effect at one and the same time: the asbestos fibre and a portion of cancerous flesh, 'causal energy' in all its glory. Those idealistic young lawyers coming straight from the philosophy department of their finishing school might want to win their clients' case without having their body cut apart - perhaps by a mixture of medical diagnosis, evidence of exposure, plus of course their obviously diseased client - but they would be as well offering a proof for the existence of God; if they can do the one they can do the other.<sup>1</sup> The Law is not an ass, in the true spirit of the Anglo-American empiricist tradition it remains a Skeptik to the bitter end.

Or does it? The good thing about the Law is it's malleability. This is why we require judges. Judges are people

who make decisions in favour of one or the other, in cases of this, that and the next thing. They accept or reject, affirm or deny. The final decision is theirs. We are to have faith in our judges who always act in the best interest of the community-at-large, the public as a whole, society in all its multi-faceted entirety. Thus they speak in one voice, with the exact same accent.

One reason why so many A. Workers prefer to avoid climbing aboard the operating table is that it is highly probable they will die as an effect of it, i.e. the act of providing this Unimpeachable Proof hastens death, this by the surgeon's tampering with their diseased flesh which "results in a process known as metastasis... The consequence is a precipitation of acceleration of the cancer and death in the form of metastatic, secondary and tertiary tumours follow swiftly, usually within a period of not more than 44 weeks."<sup>1</sup> Which is a pity for A. Worker but not for B. Business, especially here in Scotland where a large proportion of financial liability will die with the victims who vainly seek justice, or else compensation from those who knowingly administered the asbestos poison which kills them. (Is the term 'killed' admissible or a breach of sub judice?<sup>1</sup>)

However, if a claimant chances to be dead prior to settlement and to being cut open by the surgeon's knife the deceased's family and supporters have the opportunity of setting a pathologist on the body. Unless the person has died on a Friday night and is being cremated on the following Monday or Tuesday because the state doesn't provide weekend autopsies. Thus the one chance the widow has of proving 100% causation goes up in smoke. She could sweep out the crematorium furnace for asbestos fibres which are of course indestructible and present them in beside her man's ashes but who's to say she wouldn't have planked them there; she might have found them in the street and slipped them in to attack poor old B. Business. Instead she must don the deerstalker along with the weeds and get to work sleuthing back through the forty odd years for each pair of

witnesses from each and every workplace the victim was ever fortunate enough to find employment. And if she doesn't begin immediately she risks losing the claim by the time-limit the Law sets on such things.

The validity of any proof is always determined by the authorities. They will not for one moment deny that asbestos attacks the lungs, colon, larynx, stomach, chest and heart. But they will dispute the actual fatality in-itself, that that particular death was due to asbestos poisoning. Who's to say what the final cause of death actually was? Maybe it was something else altogether, especially a something that doesn't result in liability from the asbestos industry. Every rule proves the exception in civil law with respect to industry versus victims of industry; and authority always favour the violator, unless forced to do otherwise.

In Glasgow alone, during the European City of Culture year, at least 300 victims of asbestos-related disease died. This figure excludes the hundreds who did not seek support and counsel at the tiny Clydeside Action on Asbestos office. The official figure for asbestos-related fatalities for the whole of Scotland is much much less than reality. This is because the deceased victims and/or their families failed to provide evidence of causation, thus they could not stop the authorities 'proving' the cause of death was not asbestos-related<sup>1</sup> and so exonerating the hard-done-by B. Business.

In criminal law victims of racial violence are obliged to provide evidence that will stop the authorities 'proving' they are not victims of racial violence. Unless dead. In which case the relatives and supporters of the deceased must do it on their own. Unfortunately a post mortem on the body of the victim does not reveal such evidence, much as the police seem to require it. This is because the victim is an effect and not a cause. Unless of course someone wishes to cite the victim's 'colour' as